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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/717,767	11/21/2000	Walter J. Kelly	5709-159	9022

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EXAMINER

REDMAN, JERRY E

ART UNIT	PAPER NUMBER
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3634

DATE MAILED: 04/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/717,767	Applicant(s) KELLY ET AL.	
	Examiner Jerry Redman	Art Unit 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 6-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☒ Claim(s) 14 and 18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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Throughout the claims, the applicant uses the phraseology "radiused". Since the exact definition of the word cannot be found in the dictionary and an exact definition could not be found within the specification, could the applicant please provide a working definition and/or another word, which would describe the element with the desired detail.

Claims 1-4 and 6-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, lines 6-7, it appears that "one of said slots" should be --said first slot--. In claim 1, lines 8-9, it appears that "said first face" should be --said second face--. In claim 1, line 10, it appears that "said second face" should be --said first face--.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-4, 6, 7, 9-13, 15-17, and 19 are rejected under 35 U.S.C. 102(e) as being anticipated by Vance ('859). Vance ('859) discloses a two-piece weatherstrip for a motor vehicle comprising a cover (30) having a first flange (32), a second flange (38)

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having a "radiused" end, and a centrally disposed web (40), a body having an S-shaped metal inserted (44), a first slot (42) engaging the web (40), a second slot (56) having a plurality of obliquely disposed webs (58A and 58B) engaging a flange (62, the body portion extending transversely thereto) extending from the vehicle and having a second face (52), a pair of wiper lips (74 and 84) having flocking attached thereto and extending from the second face (52), a flexible flange (the portion 34 at the end of first flange 32) having a "radiused" end, and a recess (36, forms a recess along an outer surface which is complementary to the formation/"radiused" end of the flexible flange).

Claim 8 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.


Claims 14 and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The applicant's arguments have been considered but are not deemed persuasive. It appears that the applicant's arguments are more limiting than that of the claims. The applicant argues that that the cover and body are uniquely engaged by one another by including flanges and recesses yet the applicant has failed to clearly and

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positively recite such language. The applicant is using "adapted to" and "for" phraseology, which fails to clearly and positively, set forth the claimed invention. It appears to the Examiner that if the applicant would include specific language which is clearly and positively set forth and which incorporates the end of the flange (40) and how it engages the flange (54) which extends outwardly from the face and has a lip engaging the surface of the body vehicle and the opposite side of the flange includes a complementary recess to that of the end of the flange (40), or something similar would at least read over Vance ('859).

Any inquiry concerning this communication should be directed to Jerry Redman at telephone number 703-308-2120.


Jerry Redman
Primary Examiner